Saskatchewan

Highways and
Transportation

SUBMISSION TO THE

HOUSE OF COMMONS
STANDING COMMITTEE ON TRANSPORT

ON BILL C-26
AN ACT TO AMEND THE *CANADA TRANSPORTATION ACT*

June 2, 2003

Mr. Joe Comuzzi, M.P.
Chairman
House of Commons Standing Committee on Transport
OTTAWA ON K1A 0A6

Dear Mr. Comuzzi:

The Government of Saskatchewan is pleased to file its submission to the House of Commons Standing Committee on Transport with respect to Bill C-26, an Act to amend the *Canada Transportation Act.*

Saskatchewan believes changes are required in the legislation to create a policy framework that promotes a more cost-effective, efficient, and competitive national transportation system.

I welcome the opportunity to appear before the Standing Committee on June 2, 2003, to discuss the key points of this submission.

Sincerely,

Original signed by

Mark Wartman
Minister of Highways and Transportation

Saskatchewan
Our Future is Wide Open

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EXECUTIVE SUMMARY

The Province's Vision

Saskatchewan envisions a national transportation system comprised of a safe, economic, efficient, accessible and adequate network of sustainable and effective transportation infrastructure and services. It supports the economic and social well-being of the province while contributing to the growth of Canada and all its regions.

The province's vision is for a transportation system that fundamentally and primarily serves its clients and customers, the shippers and travellers, balanced with viability of the national carriers. Competition and market forces are, whenever possible, the prime agents in providing viable and effective transportation services and readily available regulation to stimulate such competition when it does not exist. Such regulation will not unfairly limit the ability of any carrier or mode of transportation to compete freely with any other carrier or mode of transportation. Competition is essential to ensuring Saskatchewan's prosperity and providing choices for shippers and travellers.

Saskatchewan submits that these objectives are most likely to be achieved when:

a) The National Highway System is embodied in federal legislation and supported by a National Transportation Policy with sustained long term funding. The regional road system is a vital component of trade corridors. Therefore, it is important to ensure that the regional road system is connected to the National Highway System.

b) A system of regional and short line railways are connected to the national rail system to support Saskatchewan's economic and social development. The majority of movements will be on the national system with federally regulated carriers.

c) Air services are improved to Saskatchewan to access Canadian, United States and international destinations by maintaining two international airports; visitors have increased options to access our province. Travellers are demanding access to a marketplace which provides for competitive air services, timely connections and reasonable prices to support personal, tourism and business travel, as well as cargo and courier services.

   Saskatchewan airport authorities have the flexibility to manage airports in the best interest of their communities and the province. The province recognizes that in order to fully realize its economic potential, the air services must be linked to a system of provincial and municipal airports that connect to the national system through regional carriers. Continued federal support for remote airports is necessary to ensure northern residents, primarily First Nations, have access to employment and educational opportunities and medical services.

d) Rural, remote and northern areas have access to the transportation system with a reasonable choice of modes. The province recognizes the importance of transportation in supporting regional economic development and providing access to health, education, employment and professional services.

The national transportation system and its characteristics are seen by Saskatchewan and the Council of Western Transportation Ministers whose vision of a transportation system is to foster prosperity in the west by:

- Providing reasonable access to remote and rural areas;
- Responding to the needs of the region and of Canada;
- Long-term sustainable funding for transportation;
- Funding for the National Highway System; and
- Increased regulatory harmonization.

Saskatchewan's vision is also consistent with the national vision developed by the provincial and territorial Ministers of Transportation and articulated in *Partnering for the Future - A Transportation Vision for Canada*. Collectively, the provincial/territorial vision for an effective system, that will move forward into the 21st Century, is one where there is:

- An environment of certainty to attract investment;
- Sustained funding to all modes of transportation;
- Funding for the National Highway System and major transportation corridors;
- Responsiveness to the needs of all regions and communities;
- Increased policy and regulatory harmony; and
- Enhanced safety and security.

In a national transportation vision, performance measures are in place, the system is accountable, and transportation decisions are based on timely, accurate shared data.

The transportation policy and legislative environment are dependent upon the provinces, territories and the federal government working collaboratively respecting each other's jurisdiction and working toward regulatory harmony among all jurisdictions.

The Transportation Policy Framework and Legislative Reforms

Saskatchewan's Position

Saskatchewan views transportation policy and legislation as an "enabler" of the envisioned transportation system. The province was disappointed that the federal government was unwilling to collaborate with the provinces and territories in the development of the policy and legislation.

Saskatchewan supports the proposed framework of legislative and policy changes that serves the transportation system clients and customers, the shippers and travellers, balanced with the interests of transportation service providers. The changes designed to increase efficiencies through modal integration, create transparency and encourage data collection as a performance measure are welcomed. Saskatchewan is pleased with the provision compelling railways that lease rail lines to short line operators to provide compensation to affected communities when the railways abandon the line. A number of additional amendments to the rail legislation are viewed as positive.

The federal government should take the lead role in developing a regulatory environment that balances the needs of users and providers of transportation services while simultaneously promoting improved performance and efficiency on a system wide basis. The reform policy favours the national carriers and no longer considers the needs of shippers and travellers.

Saskatchewan made 46 specific recommendations in two separate submissions to the *Canada Transportation Act* Review.

The principal recommendation for Saskatchewan's shippers and travellers is included with our recommendation to incorporate a vision statement in the legislation. It emphasizes that "*the vision statement* must clearly continue the primacy of competition; where regulation is necessary to service the transportation needs of shippers and travellers, the regulations should correct the market to obtain an outcome similar to that achievable under competitive market conditions"[1].

Saskatchewan recommended inclusion of a vision statement within the *Canada Transportation Act*. There is no articulation of a vision within the legislation. The federal document, *Straight Ahead, A Vision for Transportation in Canada*, identifies federal achievements, lists various system attributes and sets out a work plan, but does not describe what the system would ultimately look like. The provinces and territories are looking for a direction or standard by which to gauge the effectiveness of their respective transportation systems and the ability of transportation policy and legislation to affect the desired outcomes.

The province supports its stakeholders who have voiced their concerns with the proposed legislation and will work collaboratively with them and the federal government to affect legislative change. The proposed revisions to the draft legislation embodied within this submission represent their majority views. They have advised that they see the new policy and proposed legislative amendments as falling short of creating the competitive environment required to generate a healthy shipping community and provide choices for travellers. They perceive a shift in focus from support for a competitive market driven environment to one supportive of national carriers. Their comments include:

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[1] Saskatchewan Submission to The *Canada Transportation Act* Review Panel on Rail, Air, Ports and Road Issues, March 30, 2001 at p.22

"Competition is de-emphasized by demoting it to one of many factors that must be considered in achieving a sound transportation policy."

"The term "full cost of services" is likely to have a significant impact on shippers seeking to obtain regulated or extended inter-switching rates or competitive connection rates established by the Agency under the new legislative regime."

In the province's view, the policy declaration and proposed legislative measures put forward as a remedy for market inability to create adequate competition in the rail sector will not create the competitive environment envisioned by Saskatchewan. These amendments have received a varied assessment from our shippers and travellers.

The proposed federal legislation does not purport to have a funding component. However, the federal government must demonstrate a commitment to sustainable transportation funding to enable the provinces and territories to attract investment and encourage the private-public partnerships. Long-term sustainable funding would provide opportunity for the provinces and territories to effectively manage their infrastructure planning. Saskatchewan supports the position that "in partnership with the provincial and territorial governments, the federal government needs to provide meaningful and long-term funding towards the National Highway System."[2]

Saskatchewan recommended that Transport Canada should ensure that any new or amended regulations or legislation that it wants to implement are subject to consultation with the provinces, territories and other stakeholders and that financial assistance is provided to cover incremental costs of implementation. Safety and environmental protection are areas that have potential to significantly impact the provinces and industry due to the lack of companion funding. Security is a national issue and should be funded from national revenues.

The province is a prime example of the impact of intermodal shifts in Canada resulting from the federal legislative framework. The *Canada Transportation Act* of 1996 and earlier federal legislation amendments facilitated a shift of freight from rail to road, from private to publicly funded infrastructure, and from federally regulated to provincially regulated infrastructure. Costs to the province have been exorbitant and will never be fully recovered as these impacts are ongoing. The proposed rail regulation regarding the treatment of sidings will affect the distances grain producers must travel to elevators and terminals and therefore, the impact upon publicly funded roads.

A large number of Saskatchewan's recommendations can be encapsulated under the heading of access to remote and rural areas; ranging from air access issues in the north to regional prosperity. The lack of new programming in this area suggests that the provinces and territories will now be responsible for addressing future issues involving

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[2] Saskatchewan Submission to the *Canada Transportation Act* Review Panel on Rail, Air, Ports and Road Issues, March 30, 2001

access to these areas. The importance of transportation to the social and economic well-being of rural and northern populations is being over-looked and the potential for northern development ill served. Furthermore, existing transportation infrastructure in rural Saskatchewan has suffered substantial impacts from the modal shift from rail to road as a consequence of federal policy and legislative changes in transportation and grain legislation.

Summation of Major Areas of Concern

The federal government took a step forward, but did not accept, in entirety, the recommendations of the *Canada Transportation Act* Review Panel (the "Review Panel") that were formulated through a combination of its independent research and the recommendations of shippers, travellers and other stakeholders.

Stakeholders welcome some of the changes but indicate that the legislation has not gone far enough. They are concerned that some of the proposed changes may weaken competition in both the rail and air sectors. In these sectors, the proposed amendments are, in some instances, viewed as a return to regulation of the transportation industry.

The major areas of concern cited are:

- The lack of a transportation vision within the legislation;
- No long-term sustainable funding for transportation infrastructure;
- Failure to balance the interests of shippers and travellers with those of the national carriers; and
- Rail competition.

These concerns form the substance of Saskatchewan's submission.

TABLE OF CONTENTS

1.0 INTRODUCTION **1**

2.0 PROPOSED AMENDMENTS IN BILL C-26 ..... **3**

2.1 The National Transportation Policy 3
2.2 Intermodal 5
2.2.1 General 5
2.2.2 Rail 5
2.2.3 Road 9
2.2.4 Air 10
2.2.5 Marine 11
2.3 Infrastructure 12
2.3.1 Investment 12
2.4 Safety, Security and Environmental Protection 13
2.4.1 Cost Recognition 13
2.5 Access to Remote and Rural Areas 13
2.5.1 Responsibility and Costs 13

3.0 OTHER ISSUES **14**

3.1 Mandatory Review of the Act 14

4.0 CONCLUSION **14**

BIBLIOGRAPHY **16**

1.0 INTRODUCTION

Saskatchewan has a small population with communities widely dispersed throughout the province. These communities rely on transportation for access to financial centres, work, school, and medical appointments and for social purposes. Northern Saskatchewan is largely undeveloped and sparsely inhabited. The province has recently introduced a strategy to encourage economic expansion in the north.[3]

Our economy is resource-based. The market for these commodities is relatively small in western Canada; the majority of production is exported. Our geographic location and proximity to water make us highly dependent upon transportation services. The bulk nature, large volume, and low-value of the commodities to be shipped and the long distances to markets affect the choice of transportation alternatives available to shippers. Many of our shippers are captive to one carrier. Transportation costs are a major component of the delivered price of bulk commodities.[4] The transportation system is of great importance to Saskatchewan and effective competition is paramount to the success of our economy. Our stakeholders have voiced their concerns with the ability of the legislation to create the competitive environment Saskatchewan shippers require and have offered their views for improving its effectiveness.

Saskatchewan has examined the policy and legislative reforms from the perspectives of continental, national, regional and provincial effectiveness.

The National Perspective

Saskatchewan participated in developing the provincial/territorial document, *Partnering for the Future - A Transportation Vision for Canada* which sets out five primary criteria for policy and legislation as:

- Shippers and travellers must be accorded equal consideration to that given to service providers;
- There must be opportunity for modal integration and efficiencies balanced by the presence of competition among and between the modes to provide competitive choices for stakeholders;
- There must be a long-term commitment to sustainable funding for the transportation system and, in particular, a funding mechanism for the National Highway System;
- Safety and environmental standards must be developed in tandem with the provinces and other stakeholders to ensure reasonable application, cost considerations and apportionment; and
- (There must be some acceptable form of) access to remote and rural areas.

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[3] Saskatchewan Northern Affairs, related documents, posted at: http://www.northern.gov.sk.ca

[4] *Vision and Balance*, Report of the *Canada Transportation Act* Review Panel, June 2001 p.37 (Paraphrased)

Saskatchewan envisions a national regulatory environment that balances the interests of shippers and travellers with those of carriers by fostering a competitive market. It is a framework that has the flexibility to allow the provinces and territories to effectively manage the transportation demands of their respective economies. The province sees the achievement of these objectives premised on competition and market forces being, whenever possible, the prime agents in the provision of viable and effective transportation services. When market forces and conditions of competition are insufficient to produce the anticipated transportation environment, regulation will become necessary to serve the needs of shippers and travellers. It is important that regulation offers remedies that are effective, affordable, and timely.

The policy and legislation framework should be the enabler of a safe, effective, efficient and flexible transportation system. It should strive to remove barriers to achieving transportation goals. To realize this, transportation policy must be clear, unencumbered by undefined criteria, and supported by full cost disclosure. Performance measures are necessary to measure the effectiveness and efficiency of modes and evaluate their competitiveness. An expanded collection of accessible transportation data is required to enable the provinces and territories to make informed policy and legislative decisions.

The legislation would encompass a vision for transportation in Canada. It would be accompanied by a funding strategy that would ensure reasonable long-term sustainable funding for transportation infrastructure. Federal policy would encourage investment and provide the provinces and territories with the opportunity to undertake long-term infrastructure planning initiatives.

Business and governments in Canada are looking to the north for investment opportunities. To meet the demands of these new economic developments, federal policy and legislation must support access to remote and rural communities.

Saskatchewan recognizes a need to have legislative and regulatory changes thoroughly analyzed and discussed with the provinces, territories and other stakeholders to determine the impacts of such changes in advance of their implementation. Where incremental costs occur due to such changes, the federal government must assume responsibility for the incremental costs. Where jurisdictional issues act as impediments to achieving transportation objectives, they should be sorted out between the provinces and the federal government.

The Regional Perspective

From a regional perspective, Saskatchewan envisages a future transportation system that plays an instrumental role in fostering prosperity in the west. To achieve regional goals, The National Transportation Policy must consider regional economies and should be crafted to not unfairly disadvantage or favour any one region. The *Canada Transportation Act* (CTA) review undertaken in 2000 and the resulting Panel report confirmed a need for regional collaboration to meet western transportation challenges. The western provinces face transportation challenges and opportunities distinct from the

rest of Canada due to sparse and wide spread populations, unique geography, distance from export and import markets and an economic base weighted heavily on primary and resource based products.

The Western Provincial Transportation Ministers entered into a Memorandum of Understanding in November of 2002 to achieve a more co-ordinated approach and an emphasis on collaboration to address transportation issues. Through such a collaborative approach, western provinces can better identify needs, address problems, build upon collective strengths, and work in partnership with the federal government to shape and influence transportation policy.

The Provincial Perspective

Provincially, our vision for transportation is a system that is safe, integrated and efficient, promotes trade and economic development, and provides choices for our shippers and travellers. Competition is a major concern for our shippers. They must compete in a global setting with countries that are better positioned geographically to access markets. Where the market has insufficient conditions of competition, competitive measures within the federal transportation policy and legislation must be accessible, affordable, timely and above all, effective.

2.0 PROPOSED AMENDMENTS IN BILL C-26

2.1 The National Transportation Policy

Saskatchewan recommended the incorporation of a vision statement in the *Canada Transportation Act*. A further recommendation was that the vision statement clearly continue the primacy of competition; where regulation is necessary to service the transportation needs of shippers and travellers, the regulations should correct the market to obtain an outcome similar to that achievable under competitive market conditions. Additionally, Saskatchewan recommended that roads be acknowledged within the vision to have complete representation of all the modes and confirm they are of sufficient national interest to merit long-term sustainable federal infrastructure funding.

Stakeholders have voiced concern with s.5 amendments that no longer base the need for regulation to occur in respect of services and regions where regulation is necessary to serve the transportation needs of shippers and travellers. Instead, regulation is limited where it may reduce the inherent advantages of any particular mode of transportation thereby considering industry needs as foremost in the determination of regulation and exhibiting no concern for the economic viability of shippers. The vision statement

must reflect a goal of the economic health and viability of the entire supply chain, not only transportation service providers.[5]

Eliminating the acknowledgement that transportation is a key to regional economic development has implications for transportation investment in the regions. Economic diversification requires flexible policy and legislation to ensure that economic activity in all regions can be supported by transportation within the context of the policy and legislative framework. The Review Panel acknowledged the policy and legislative implications of regional economic diversification in its final report, *Vision and Balance*.

The concept that governments and the private sector work together to achieve an integrated system requires further description to detail what is intended.

Stakeholders have indicated their specific concerns with the policy declaration as follows:

> *"Competition is de-emphasized by demoting it to one of many factors that must be considered in achieving a sound transportation policy."*

> *"Straight Ahead does not recognize that transportation has a direct role in the economic development of remote regions."*

> *"The term "full cost of services" is likely to have a significant impact on shippers seeking to obtain regulated or extended inter-switching rates or competitive connection rates established by the Agency under the new legislative regime."*

The required policy framework is one that:

- Encompasses a vision
- Clearly articulates what is intended
- Promotes competition
- Balances the interests of shippers and travellers with those of the national carriers
- Represents regional interests
- Acknowledges roads

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[5] Saskatchewan Submission to the *Canada Transportation Act* Review Panel on Rail, Air, Ports and Road Issues, March 30, 2001 at p. 22

2.2 Intermodal

2.2.1 General

The transportation policy declaration promotes the efficient use of all available modes of transportation. Saskatchewan agrees with this concept and had expanded it to include integration of jurisdictional responsibilities. Modes are already inextricably linked and one mode's activities often have significant impacts on other modes. The relationship between trucking and rail and the associated impacts on Saskatchewan's roads due to changes in grain transportation is a prime example.

Saskatchewan stakeholders also require a healthy degree of competition among and between the modes to perpetuate competitive choices. Where the market does not produce a healthy competitive environment, regulation must provide effective compensatory remedies.

The Agency would be the most appropriate authority to examine transportation mergers and acquisitions, because it has the necessary expertise, is well versed in deciding when public hearings are necessary and in running public hearings; and it is experienced in cooperating with regulatory authorities in other countries to exchange relevant information about proposed mergers.

2.2.2 Rail

The Saskatchewan government supports amendments in Bill C-26 that enhance rail competition by better balancing the market power of shippers and carriers in commercial rate and service negotiations.

However, Bill C-26 has not created a policy and regulatory framework that balances the needs of shippers for competitive rail service, and the needs of the railways for revenue adequacy and less regulation. The following changes in the transportation reform legislation are required to promote competition in the rail sector:

- Provision for a transfer process for rural sidings similar to that proposed for urban sidings, to enable farmers to load producer cars and prevent skeletonization of branch lines;
- Elimination of the requirement that shippers must demonstrate that no competitive transportation options exist to seek relief from the Canadian Transportation Agency under the Final Offer Arbitration provisions;

- Allowing "any person" to apply for running rights, subject to a reverse onus public interest test;
- Elimination of impediments that prevent shippers from obtaining a regulated access rate to an interchange with a second railway, to foster effective rail competition.

Establish a Similar Process for the Transfer and Discontinuance of Urban and Rural Sidings

Rail sidings and related infrastructure in rural areas should be protected through provision for a transfer process similar to that proposed in the legislation for large urban centres. This would enable existing rural sidings to be retained to enable farmers to load producer cars, including rail switches, spurs, and interchange track required to maintain effective railway operations.
The definition of "railway line" should be amended to include yard tracks, sidings, spurs, switches, or other track auxiliary to a railway line, to facilitate the loading of producer cars.

Legislation must also provide for a process that allows interested parties to purchase this infrastructure, if retention and operation of a siding is economically viable. Legislative amendments are required to protect rural sidings from abandonment by the railways and allow them to be utilized for producer car loading, following transfer to producers or local groups.

Provision for a transfer process for rural sidings would prevent skeletonization of branch lines prior to discontinuance, and prevent rail sidings that are no longer essential for rail operations to be removed at the railway's discretion.

The provisions for the transfer of rural sidings should be the same as for sidings in large urban centres contained in section 145(1). Local governments or other interested parties should be given the opportunity to purchase rural sidings through negotiations with the railway, when its intent to transfer or discontinue the siding is advertised.

The 60 day notice period proposed for abandonment of rural sidings is unacceptable. The timeframe for advertising the railway's intent to transfer or discontinue a rural siding should be the same as the proposed transfer process for urban sidings. If agreement to purchase a siding cannot be achieved, the siding should be offered to local governments at Net Salvage Value.

Allow "Any Person" to Apply for Running Rights, Subject to a Reverse Onus Public Interest Test

In May of 2001 and September of 2002, the Canadian Transportation Agency rejected applications for running rights by Hudson Bay Railway Company and Ferroequus Railway Company over trackage owned by Canadian National and Canadian Pacific Rail.

The running rights provision has not been an effective mechanism for promoting rail competition, because it is viewed by the Canadian Transportation Agency as an extraordinary measure to be used only in cases where there is clear evidence that the railway providing the service is not acting in the public interest. In addition, the Agency has determined that running rights may be applicable for bridging purposes, but not for solicitation of traffic.

The Saskatchewan government recommended in its October 2000 submission to the *Canada Transportation Act* Review Panel on Competitive Rail Access Provisions that the running rights provision should be amended to allow "any person" to apply for running rights on trackage owned by another railway, subject to a reverse onus clause that shifts responsibility to the owner railway to establish that a running rights order would be prejudicial to the public interest.

Unlike the existing running rights provision, where the applicant must prove that this remedy is in the public interest, the Saskatchewan proposal would shift the burden of proof to the owner railway to demonstrate that running rights would be contrary to the public interest before the Agency could deny the application.

Running rights could be an effective measure for promoting rail competition if the current provision were modified to enable" any person" to apply for running rights to the closest interchange point with a connecting carrier. The onus should be on the railway owning the track where running rights are requested to show that the application is not in the public interest.

This would facilitate the adoption of case-by-case reverse onus running rights in which the Agency must determine that the granting of running rights would not contravene the public interest, and that the applicant is a fit operator.

Any running rights applicant must comply with appropriate safety and insurance requirements. The owner railway must be fairly

compensated, at a level that will not deter or prevent a running rights operation from being conducted.

These proposed amendments to the running rights provision would give increased bargaining leverage to shippers or short line operators captive to one railway company, or located in an area where inadequate rail competition exists.

Eliminate the Captivity Test for Final Offer Arbitration Proceedings

The new legislation proposes a requirement of a Final Offer Arbitration (FOA) process for transactions under $750,000. The FOA requires an arbitrator to consider whether the shipper has effective and adequate alternative means of transporting goods before proceeding with the application. This requirement is unacceptable, because it will impede shippers from obtaining relief. Requiring shippers to demonstrate that no competitive transportation options exist will make the FOA process costly and time consuming for most applicants.

Other amendments in the FOA provisions allow a group of shippers to join in one proceeding and submit one offer for arbitration when their offer seeks common relief, and extend the FOA to incidental charges and services. These changes will provide a mechanism for resolving rate and service disputes in multiparty groups. The requirement that the terms of a multiparty FOA have to be applied equally to all shippers in the group must be clarified.

The proposed captivity test should be eliminated, to make the FOA process timelier and less costly to administer. If this approach is not adopted, it is recommended that the existing FOA process for transactions under $750,000 be retained.

Elimination of Impediments to Obtaining a Regulated Access Rate to an Interchange with a Second Railway

Bill C-26 does not provide shippers located beyond inter-switching limits with an effective competitive access mechanism to negotiate competitive rates and services with the railways.

Proposed entry and captivity tests associated with the proposed Competitive Connection Rate (CCR) provision will increase the administrative burden and cost of using this measure. Requiring shippers to prove that a line haul rate exceeds a specified level before the Agency will proceed with a CCR application creates an entry test that will discourage use of this remedy. In addition, a captivity test that requires shippers to demonstrate that no competitive

transportation options are available would impede their ability to apply for a CCR to gain access to a second railway. The CCR provisions also impose unnecessary restrictions on access to Final Offer Arbitration.

However, removal of the requirement that shippers obtain an agreement with an existing carrier before requesting a CCR from the Canadian Transportation Agency is a positive element of this provision.

The proposed CCR mechanism should be deleted from the legislation and replaced with a revised Competitive Line Rate (CLR) provision, without the requirement for a prior agreement with a connecting carrier.

Other issues

Rail shippers have also identified that s.112 of the CTA which states: "*a rate or condition of service established by the Agency must be commercially fair and reasonable to all parties*" be repealed. The retention of this section continues to support a subjective consideration in determining relief that should be granted by the Agency.

The Saskatchewan government supports the position of advanced by shippers where they have put forward the arguments that the Agency should be given appropriate jurisdiction in Canada to ensure that there will be a public hearing process at which time the plans of the applicants will be disclosed and the impacts on shippers determined.

Saskatchewan has made the argument that for rail mergers, the Agency should ensure that any shipper that has competitive access to two rail carriers prior to a merger or acquisition should continue to have access to two carriers following a merger, to maintain alternative transportation options. This approach has been successfully used to protect shippers' interests under the U.S. Staggers Act.

2.2.3 Road

Road transportation interfaces with all other modes of transport however, because roads are mainly under provincial jurisdiction, the *Act* does not address them. Saskatchewan recommended that the vision statement acknowledge that roads play an integral role in trade corridors nationally and internationally and that the federal government commit to meaningful funding of trade corridors. This would ensure adequate funding for the National Highway System.

Straight Ahead suggests that realization of the transportation vision for Canada will result in the appropriate level of investment being directed to transportation infrastructure, through the right pricing signals. This suggests a user pay system. Our taxpayers are already paying a high price, much of which is being directed toward mitigation of on-going road impacts resulting from federal legislative reforms.

Saskatchewan, like other provinces, does not have a dedicated fuel tax. The province recognizes that fuel taxes are part of general revenue and that governments need flexibility for assigning revenues to various spending priorities. However, Saskatchewan and most other provinces have committed expenditure levels on transportation that are equivalent to between 90% to over 100% of the fuel tax. Saskatchewan strongly feels that the federal government needs to commit long term funding to the National Highway System.

2.2.4 Air

Saskatchewan, in consultation with our stakeholders, recommends that the House Standing Committee on Transport not progress Bill C-27, an Act respecting airport authorities and other airport operators and amending other Acts (the *Canada Airports Act).* Should the federal government take the decision to proceed, Saskatchewan will respond in a separate submission.

The proposed legislation increases regulation and reduces flexibility of the airport authorities. There may be some accountability issues with some of the larger airports but the legislation covers all airport programs of all sizes. This concept limits the effectiveness of regional airports and the level of service they are expected to deliver and compels domestic carriers to provide requesting carriers with access to interlining. Successful carriers have not requested joint fares and loyalty marketing programs. The *Canada Airports Act* will result in higher costs for airports to pass onto airlines and air passengers.

Saskatchewan's second submission to the Review Panel included three multifaceted recommendations concentrated on increasing competition in the air sector including amending the *CTA* to require air entities to provide comprehensive data for usage by the Air Travel Complaints Commissioner as a means of monitoring and reporting on consumer protection and competition issues. (We also requested a parallel provision for rail.)

Our stakeholders advise of the following concerns and proposed revisions they see as necessary for air transportation:

- Amend the *CTA* to require air entities to provide comprehensive data for usage by the Air Travel Complaints Commissioner as a means of monitoring and reporting on consumer protection and competition issues.
- Competitive air services are necessary to provide more service and price options for Saskatchewan travellers and shippers. Transport Canada should complete Phase 2 of the review of international air policy it began in 2001 and Transport Canada should consult with stakeholders, including provinces, after Air Canada is restructured.
- Viable airports are required to promote the economic and social development of Saskatchewan. Eliminate or reduce airport rents to levels representing a fair return on the federal government's historical investment, as the airport authorities are responsible for the operating and capital costs.
- Viable airlines are needed to ensure the movement of business and leisure travellers and air cargo to and from Saskatchewan. Eliminate or further reduce the Air Travellers Security Charge. Security is viewed as a national responsibility that should be paid for from national revenues.
- Improved airport infrastructure in remote and rural areas in northern Saskatchewan is essential to connect our isolated communities to health, education and employment opportunities.

Clause 28 (1) amending the *Canada Transportation Act* to include section 85.2(1) (b) is of concern because the intent of the amendment is unclear. Forced interlining agreements are plausible under this amendment. This is viewed as anti-competitive and contrary to the move toward deregulation of the transportation sector.

2.2.5 Marine

British Columbia, Alberta, Saskatchewan and Manitoba made recommendations to the *Canada Marine Act* Review through a joint submission. The joint submission addresses priority implementation issues and makes recommendations regarding key provisions and operation of the *Canada Marine Act:*

- Port authorities must meet the needs of port users through provision for improved financial flexibility to make investments in needed infrastructure and land acquisition.

- The federal government must make investments in strategic port infrastructure to enhance the competitiveness of Canadian ports.

- Improved governance processes and performance measures are required to enhance the accountability of port authorities.

Saskatchewan's main objective is to reduce marine transportation and handling costs for shippers and producers. This can be achieved through legislative amendments that foster port infrastructure improvements and cost-effective marine services.

The results of the review have not yet been made public. Saskatchewan will provide a response to the recommendations of the Review Panel once they are known.

2.3 Infrastructure

2.3.1 Investment

Saskatchewan, along with the other provinces and territories, has called upon the federal government to provide long term sustainable funding for the transportation system. Without commitment from the federal government, potential investors are reluctant to invest in transportation and the private-public partnerships encouraged in the federal document, *Straight Ahead, A Vision for Transportation in Canada*, will not be possible.

We are encouraged that the Canada Strategic Infrastructure Fund (CSIF) will provide a funding mechanism for transportation of national significance. However, we require a stable funding environment to facilitate long term infrastructure planning. A companion funding strategy and a clear vision would have provided the needed stability. Of particular concern is the lack of a funding strategy for the National Highway System. To remain competitive in the world market, global logistics dictate that our transportation system cannot fall behind in efficiency and effectiveness. The combination of private-public partnerships and user-pay concepts envisioned by Transport Canada in its *Straight Ahead* document are not feasible for funding the entirety of the transportation system in Saskatchewan.

Saskatchewan suggests that the federal government needs to provide meaningful and long term funding towards the maintenance and upgrading of the National Highway System.

2.4 Safety, Security and Environmental Protection

2.4.1 Cost Recognition

Proposed s.5 declaration amendments now encompass security and environmental considerations in addition to the safety component.

The costs of maintaining a safe, secure and environmentally sound milieu across the entirety of the transportation system will be substantial. The full cost of maintaining a transportation system that respects the environment is unknown. Ratification of the Kyoto Accord will add additional environmental costs for the transportation sector. It is important that federal government consult with the provinces and other stakeholders when it is contemplating legislative or regulatory changes that will impact upon them.

An example is the upgraded federal grade-road crossing standards. The federal government provided a grand-fathering provision for upgrading federal grade-road crossings. This allows the province to upgrade crossings simultaneously with new construction and upgrades. Saskatchewan has 4,997 crossings. Upgrading these to the federal standard would have cost the province between $231 and $277 million.

The federal government should provide financial assistance to cover the incremental costs associated with implementing legislation that will substantially impact the provinces and territories. As security is a national issue, national revenues should cover all costs of maintaining a secure transportation system.

2.5 Access to Remote and Rural Areas

2.5.1 Responsibility and Costs

The federal document, *Straight Ahead, A Vision for Transportation in Canada*, states that existing programs to facilitate access to transportation to remote and rural areas will continue. Simultaneously, the federal government's long-term commitment to subsidizing passenger rail services to remote communities has been confirmed. The Minister of Transport is reviewing the December 2002 recommendations on intercity bus issues including rural and small community bus access.

The federal government has jurisdiction over issues pertaining to aboriginal peoples where those issues are not subject to self-government agreements. Communities in northern Saskatchewan are

largely comprised of aboriginal peoples. Business and governments in Canada are looking to the north for investment opportunities. Economic development in the north most often necessitates building new transportation infrastructure to support joint venture projects. Air infrastructure is essential to connect the inhabitants of isolated communities to services.

There are no new programs aimed at improving access to remote and rural areas. Where transportation infrastructure is required to support aboriginal initiatives or joint ventures entered into by aboriginal peoples, the federal government is responsible for the provision of assistance.

The government plans to meet its objectives by maintaining federally supported infrastructure in the most cost-effective manner including examining alternative arrangements with all partners who have a role including the provinces and territories. With no additional funding for remote and rural access, the provinces and territories will be facing the task of funding responsible for ensuring there is access and assuming the associated costs, without appropriate federal participation.

3.0 OTHER ISSUES

3.1 Mandatory Review of the Act

Saskatchewan recommended a review of the revised CTA in another five years to determine whether the transition to effective rail competition has occurred or whether further adjustments to legislation are necessary.

Stakeholders have voiced the opinion that the requirement to review the *Act* by 2010 should be changed to the current statutory four-year review period to ensure that any problems that may occur are resolved within a shorter time period.

4.0 CONCLUSION

The legislative and policy reform has received mixed reviews from stakeholders. They are pleased with many of the proposed amendments, find some lack clarity and have suggested revisions to others.

The federal government must bring clarity to the meaning of the policy objectives. It is essential that conditions of competition and market forces are the prime agents in providing viable and effective transportation service and that effective and accessible regulation is available to stimulate such competition when it does not exist. The current policy in the *CTA* refers to achievements of competition

both "within and among various modes of transportation." It promotes a safe, economic, efficient and adequate network of transportation services and the economic well-being and growth of Canada and its regions.

Straight Ahead deviates from the vision that was put forward in the Federal Blueprint initiative document, *Creating a Transportation Blueprint for the Next Decade and Beyond*: *Defining the Challenges*, released June 2001. The federal government had to determine whether it would create a vision that supports the "national carrier" or one that balances the interests of shippers and travellers with those of carriers, by fostering a competitive market where shippers and travellers receive better service and lower prices.

Shippers and travellers argue that the federal government has unduly increased its level of regulation without appropriate cost-benefit considerations. This is a major departure from the government's own policy direction as set out in the mid-nineteen eighties in its publication "*Freedom to Move*".

The federal government must view the transportation sector as an essential service requiring investment. Other G8 countries have transportation funding strategies in place, and they are competing with us. The economic prosperity of Canada is at stake.

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